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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,848	11/19/2003	Donal S. Dunbar JR.	5077-0001	1715

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EXAMINER

DINH, TIEN QUANG

ART UNIT PAPER NUMBER

3644

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/717,848

Applicant(s)

DUNBAR, DONAL S.

Examiner

Tien Dinh

Art Unit

3644

*WJ*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 7/23/04.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 15-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/19/03.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election of group I in the reply filed on 7/23/04 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 12-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/23/04.

### *Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-11 and 15-19 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific asserted utility or a well established utility.

The plasma beam "striking" the magnet to produce dispersion loops so as to be captured acceleration tube and as the exiting of the dispersion loop from the tube will somehow create an attractive force to propel the magnet and vehicle forward. The applicant is invited to submit a working model to overcome the rejection.

Claims 1-11 and 15-19 are also rejected under 35 U.S.C. 112, first paragraph.

Specifically, since the claimed invention is not supported by either a specific asserted utility or a

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well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

The Examiner fails to see how the exiting of the of the dispersion loop from the tube will somehow create an attractive force to propel the magnet and vehicle forward. Furthermore, how is the magnet arranged in the spacecraft? The drawings submitted seems very simplistic and doesn't seem to disclose the detail workings of the invention. Furthermore, how can the dispersion loops reverse polarity at a time interval? How is this done?

Furthermore, in page 8 of the disclosure, the applicant is disclosing that the plasma beam is directed into the magnet. How can this be? Isn't the plasma beam suppose to strike the magnet? The Examiner fails to see what element 52 in figure 2 is and does. Isn't the magnet element 12? Why did the applicant discloses that the magnet is a continuous loop 52?

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 and 15-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Please note that in the independent claims, it is claimed that the drive system comprises of "a vehicle". This is not correct in that the vehicle isn't part of the drive system but the drive system is part of the vehicle.

***Claim Rejections - 35 USC § 103***

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 and 15-19, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang-Diaz or Morris in view of the admitted prior art (page 9, second paragraph (0021)).

Chang-Diaz or Morris discloses using a drive system in a vehicle having a magnet, dispersion loops reversing polarity, and an ignition to produce plasma to "strike the magnet" but is silent on the dispersion tubes. However, the admitted prior art discloses that particle acceleration tubes are well known in the art. Please also note that curved particle acceleration tubes such as those used at CERN or other atom smashers are well known in the art.

It would have been obvious to one skilled in the art at the time the invention was made to have used curved particle acceleration tubes in Chang-Diaz or Morris' system as taught by the admitted prior art to create a safer and more reliable system so that the Chang-Diaz or Morris' system can last longer and have more power.

Please note that the angling of the tubes merely involved routine steps that one skilled in the art would have taken to capture the dispersion loops so that the drive system can be more efficient to produce thrust.

As for the power source being radioactive isotope decay energy system, the Examiner has taken judicial notice that this power system is well known in this day and time.

### *Conclusion*

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Thompson et al and Thompson disclose particle tubes.

Semenkin et al discloses accelerator.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tien Dinh whose telephone number is 703-308-2798. The examiner can normally be reached on 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703-306-4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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*Tien Dinh*